

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.:	09/920,071
Applicant:	<i>Aye et al.</i>
Filed:	August 1, 2001
Title:	3-D HLCD System And Method Of Making
Group Art Unit:	2872
Confirmation No.:	4421
Docket No.:	16LP-134175
Examiner:	Boutsikaris, Leonidas
Application No.:	09/920,071

**DECLARATION OF DANIEL YANNUZZI IN SUPPORT OF
PETITION FOR REVIVAL OF ABANDONED APPLICATION
UNDER 37 C.F.R. § 1.137**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Daniel N. Yannuzzi, declare as follows:

1. I am an attorney licensed to practice law in the State of California and I am a partner at the law firm of Sheppard, Mullin, Richter & Hampton. I am registered to practice before the United States Patent and Trademark Office (USPTO).
2. Sheppard, Mullin, Richter & Hampton represents the Physical Optics Corporation, which is the owner of the entire right, title, and interest in U.S. Patent Application No. 09/920,071, filed on August 1, 2001 and entitled "3-D HLCD System And Method Of Making."
3. I am informed and believe that the Physical Optics Corporation takes reasonable steps to ensure timely response to communications (e.g., Office Actions) from

the USPTO. To this end, the Physical Optics Corporation relies on outside counsel for all matters relating to docketing, prosecution and maintenance of its patents and patent applications worldwide. The Physical Optics Corporation receives and relies on regular status reports from outside counsel detailing statuses, actions due, fees due and deadlines for all worldwide patents and applications.

4. I am informed and believe that at the time this patent application went abandoned for failure to timely file a proper reply, Leonard Tachner at The Law Offices of Leonard Tachner was outside counsel for Physical Optics Corporation, and was responsible for the items outlined in paragraph 3, above.

5. I am informed and believe that Mr. Tachner is an attorney licensed in the state of California and registered to practice before the United States Patent and Trademark Office.

6. I am informed and believe that Mr. Tachner uses a docketing system to track actions and their associated due dates.

7. I am informed and believe that Mr. Tachner did not send any communication to the Physical Optics Corporation to report the November 18, 2002 Office Action.

8. I am informed and believe that the Physical Optics Corporation has never received any communication from Mr. Tachner indicating that the above patent application had been or would become abandoned.

9. I am informed and believe that the Physical Optics Corporation did not at anytime authorize or instruct Mr. Tachner to allow the patent application to go abandoned.

10. I am informed and believe that on or about August of 2007, the Physical Optics Corporation learned that numerous patent matters that Mr. Tachner was

responsible for may have gone abandoned even though the Physical Optics Corporation did not receive any communication from Mr. Tachner to indicate that such matters may have gone abandoned or would become abandoned.

11. I am informed and believe that the Physical Optics Corporation immediately attempted to contact Mr. Tachner to investigate whether the status reports they had been receiving were accurate and to determine the extent of any inaccuracies. Mr. Tachner failed to return their calls or answer their inquiries.

12. I am informed and believe that because Mr. Tachner was not responsive to the Physical Optics Corporation's repeated inquiries, in September of 2007 the Physical Optics Corporation undertook a search for new counsel to handle their patent matters.

13. In October of 2007 the Physical Optics Corporation retained Sheppard Mullin Richter & Hampton as their new intellectual property counsel and initiated a transfer of all of their patent files to Sheppard Mullin Richter & Hampton.

14. Sheppard, Mullin, Richter & Hampton immediately undertook a thorough investigation of the entire docket of intellectual properties and learned that the subject patent had been abandoned for failure to pay maintenance fees.

15. During October and early November of 2007, I made repeated attempts to contact Mr. Tachner regarding the abandonment. Mr. Tachner has refused and continues to refuse to answer his telephone or to return my telephone calls. Nonetheless, I worked diligently through his assistant to obtain a signed declaration of Mr. Tachner that the failure to reply to the Office Action was due to a docketing error and was unavoidable and unintentional.

16. On December 5, 2007, I received from Mr. Tachner's assistant a declaration signed by Mr. Tachner stating that the failure to reply to the Office Action was due to a docketing error and was unavoidable and unintentional.

17. Accordingly, I am informed and believe that the entire delay in appropriately replying to the November 18, 2002 Office Action until the filing of the grantable petition included herewith for the above-referenced patent was unavoidable and unintentional.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

Date: _____

12/6/7



Daniel N. Yannuzzi

Reg. No. 36727

Sheppard, Mullin, Richter & Hampton